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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,354	09/23/2005	Mihai Adrian Tiberiu Sanduleanu	NL 030320	1248

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
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EXAMINER

NGUYEN, LINH M

ART UNIT	PAPER NUMBER
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2816

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/550,354

Applicant(s)

SANDULEANU, MIHAI ADRIAN
TIBERIU

Examiner

Linh M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 8-11 is/are rejected.
- 7) ☒ Claim(s) 2-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 09/23/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claims 1-11 are presented in the instant application according to the Applicant's filing on 09/23/2005.

Drawings

1. The drawings are objected to because the labels for items on the drawings are not shown. Throughout the drawings, the blank boxes should be labeled as to function. Correction is required. See 37 CFR 1.84(o).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 8-11 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 9 of U.S. Pub. No. 2006/0250161. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed to a common inventive matter and omission of an element (*i.e. reference signal (REF)*) and its function is obvious if the function of the element is not desired.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko (U.S. Patent No. 6,249,188) in view of d'Haene et al. (U.S. Patent No. 6,614,314).

With respect to claims 1 and 8-11, Kaneko discloses, in Fig. 1, a linear phase detector and its corresponding method, the linear phase detector comprising at least a first circuit [14, 16, 21, 22, 23, 41] receiving at least one first clock signal [CLK] for generating at least one first control signal [UP] and at least a second circuit [15, 17, 21, 22, 23, 42] receiving at least one second clock signal [*CLK] for generating at least one second control signal [DOWN], wherein each one of the circuits comprises at least two latches and at least one selector [41, 42] for selecting latch output signals.

Kaneko discloses the selectors [41, 42] as two-line to one-line selectors but fails to specify that the selectors are multiplexers for multiplexing the latch output signals.

D'Haene et al. discloses, in Fig. 2 and col. 2, lines 46-47 ("*selector/multiplexer*"), a selector [44] being a multiplexer with two-line to one-line output.

Although nowhere is the reference to Kaneko is seen to expressly recite that the selectors [41, 42] are multiplexers; however, one skilled in the art would realize that Kaneko's selector and d'Haene et al.'s multiplexer are art-recognized equivalents. Therefore, it would have been obvious for one skilled in the art to use d'Haene et al.'s multiplexer for Kaneko's selector due to the doctrine of equivalents (*see col. 2, lines 46-47 ("selector/multiplexer")*).

Allowable Subject Matter

6. Claims 2-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The closest prior art of record does not show or fairly suggest:

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a) A linear phase detector, in which the first latches of the first circuit receive at least one data signal, with a first multiplexer of the first circuit generating at least one first multiplexer output signal *destined for second latches of the second circuit*, as called for in claim 2; and

b) A linear phase detector, which comprises at least a third circuit receiving the first clock signal for generating at least one third control signal and at least a fourth circuit receiving the second clock signal for generating at least one fourth control signal, wherein each one of the circuits comprises at least two latches and at least one multiplexer for multiplexing latch output signals, as called for in claim 4.

Citation of Relevant Prior Art

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prior art Dalmia et al. (U.S. Patent No. 6,225,831) discloses a phase detector with a pump up circuit and a pump down circuit.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh M. Nguyen whose telephone number is (571) 272-1749. The examiner can normally be reached on Alternate Mon, Tuesday - Friday from 7:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Callahan can be reached on (571) 272-1740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LMN



**LINH MY NGUYEN
PRIMARY EXAMINER**